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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPEAL NO:

In Re Application of: NACK

Confirmation No. 7234

Serial No. 09/261,030

Filed: March 2, 1999

For: METHOD AND SYSTEM FOR MANAGING A CONSUMER TRANSACTION
SYSTEM WITH AMOBILE MANAGEMENT DEVICE

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APPELLANT'S BRIEF

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:

Date: August 27, 2003

NACK

Confirmation No. 7234

Serial No. 09/261,030

Group Art Unit: 2167

Filed: March 2, 1999

Examiner: Cuff, Michael A.

For: METHOD AND SYSTEM FOR MANAGING A CONSUMER TRANSACTION
SYSTEM WITH A MOBILE MANAGEMENT DEVICE

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF ON APPEAL

Sir:

Appellant herein files an Appeal Brief drafted in accordance with the provisions of
37 C.F.R. § 1.192(c) as follows:

I. REAL PARTY IN INTEREST

Appellant respectfully submits that the above-captioned application is assigned, in its
entirety to International Business Machines Corporation, Armonk, New York.

II. RELATED APPEALS AND INTERFERENCES

Appellant states that, upon information and belief, he is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Application Serial No. 09/261,030 (the instant application) as originally filed included claims 1-24. Claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 are pending. In response to the Office Action dated 10/8/02, Appellant canceled claims 1, 3, 4, 7, 12, 13, 14, 17, 21, and 22 and amended claims 2, 5, 6, 8, 15, 18, 19, and 23. Claims 5, 15, and 23 were amended to be of independent form, while appropriate amendments were made to maintain proper dependency in the other amended claims. Claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 are on appeal and all applied prospective rejections concerning Claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 are being appealed herein.

IV. STATUS OF AMENDMENT S

All amendments made to the instant application have been entered.

V. SUMMARY OF THE INVENTION

The present invention provides for efficiently handling an override condition in a point of sale device (POS). In a method aspect, the method includes receiving override details at the POS device, sending the override detail from the POS device to a wireless management device, and displaying the override details on the wireless management device. The method further includes entering an override signal on the wireless management device, sending the override signal to a central controller device from the wireless management device, and relaying the override signal from the central controller device to the POS device. A personal digital assistant with a wireless modem is utilized as the wireless management device.

In a further aspect, a method and system provide efficient management interaction in a consumer transaction system. The system includes a plurality of point of sale (POS) systems, a central controller system coupled to the plurality of POS systems, and a mobile manager system. The mobile manager system communicates with the plurality of POS systems through the central controller system by a wireless communication mechanism and remotely monitors and responds to the plurality of POS systems.

VI. ISSUES

The issue presented is:

(1) whether claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 are unpatentable under 35 U.S.C. § 103(a).

VII. GROUPING OF CLAIMS

Appellant hereby states that claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 form one group.

VIII. ARGUMENTS

A. Summary of the Applied Rejections

The final office action dated 3/24/03 rejected claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23, and 24 under 35 U.S.C. 103(a) as being unpatentable over Swinamer et al. ('Swinamer') in view of Walker et al. ('Walker'). In making the rejection, the Examiner states:

Swinamer et al. shows all of the limitations of the claims except for specifying the use of a wireless management device/PDA including displaying information and sending information to and from the PDA and the POS via a central controller also using wireless modems.

Swinamer et al. shows, figure 1, a hardwired method of communicating (sending) request for management decisions (override details), including price information, credit clearance (monetary pick-up, approval), security alerts (lock up POS) and other incidents requiring the manager's attention. This is done for a plurality of POS terminals. The manager is at the master station (central controller system) and can determine through verbal communication the satisfactoriness or unsatisfactoriness level of the POS terminal and has the ability to fix problems to ensure satisfactoriness.

Walker et al. teaches, figure 1, a system and method for dynamic assembly of packages in retail environments. System 100 includes a server 102 which is connected through a network 104 (LAN) to a plurality of point-of-sale terminals (column 4, lines 42-44) in order to improve information flow to better serve customers. The use of a PDA is one examples [sic] given as an output device for both the server and the POS terminals.

Based on the teaching of Walker et al., it would have been obvious ... to modify the Swinamer system to incorporate the LAN and PDA system of Walker et al. in order to improve information flow to better serve customers.

The Examiner stated the following in response to Appellant's arguments against these rejections:

Applicant's arguments filed 1/13/03 have been fully considered but they are not persuasive. Applicant asserts that neither Swinamer nor Walker show the signaling of data from a mobile manager system to a central controller to provide an override signal in response to an override condition occurring in a POS. Applicant fails to see how or why a PDA or wireless management device could or would be used in Swinamer.

The examiner asserts that the above limitation is shown by introducing wireless communication to old and well known management functions. Swimaner shows the old and well known functions of a retail manager who is in communication with the employees servicing the POS terminals by means of a phone system. Walker teaches a system and method for dynamic assembly of packages in retail environments. While Walker has a different purpose for its communication system, shown in figure 1, it specifically mention [sic] PDAs as a means for wireless communication both at a central server and at the POS sites.

Both references solve the same problem of communicating information from a central point to a group of POS terminals. It would be obvious for one of ordinary skill in the art to want to use the better communication system. (This is the "why".) Replacing the phone communication system of Swimaner with the wireless communication system of Walker including the use of PDAs would be an obvious improvement. (This is the "how".)

Appellant respectfully requests that the Board reverse the Examiner's final rejection of the pending Claims.

B. The Cited Prior Art

Swimaner discloses an integrated check-out counter system for supermarkets and other retail stores, the system being adapted to expedite customer transactions, to improve accounting procedures, and to strengthen store security. Each check-out counter in the store is serviced by a bagger and a cashier who are linked to each other and to a master station installed at the manager's booth by an intercommunications network. In operation, a customer having selected items to be purchased and having placed them in a cart, wheels the cart to one of the counters where the bagger removes the items from the cart and calls their prices to the cashier over the link therebetween, the items then being bagged. The cashier enters the cost of each item into a cash register and when the last item is bagged, the cashier rings up the total. The customer then pays the cashier and departs with the bagged items, thereby completing the transaction and clearing the counter for the next customer. When in need of price information, the baggers at the various counters are able to communicate with the master station, and when credit clearance is

needed for a customer seeking to cash a check, the cashiers communicate with the master station, the same network also being used to report shoplifting and other incidents requiring the manager's attention.

Walker teaches a system and method for managing the sale of a group of products at a single price based on sales performance data of the products. The method and apparatus include offering a plurality of products by identifying products that are complementary, verifying acceptable sales performance for the complementary products, identifying a package including the complementary products having acceptable sales performance, determining a package price for the products included in the package, and offering the products included in the package at the package price. The status of the package is set to invalid when a time interval in which the package is available has expired. The method and apparatus further include package offer redemption by identifying a package including the products identified, determining a package price for the products included in the package, processing a sale of the products included in the package, adjusting sales performance data based on the sale of the products, and setting a status of the package to invalid when the sales performance data for the products included in the package fail to meet limits.

C. Claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23, and 24 Are Not Unpatentable Under 35 U.S.C. § 103(a)

The present invention provides for efficient handling of an override condition in a point of sale device (POS) with the use of a mobile manager system/wireless management device. As described on page 4, lines 19-21, the mobile manager system is used to provide appropriate

action in response to an override condition occurring in a POS by signaling a central controller.

Independent claims 5, 15, and 23 recite this aspect of the present invention, as follows:

5. A method for efficiently handling an override condition in a point of sale device (POS), the method comprising:

- (a) receiving override details at the POS device;**
- (b) sending the override details from the POS device to a wireless management device;**
- and**
- (c) displaying the override details on the wireless management device, further including:**
 - entering an override signal on the wireless management device;**
 - sending the override signal to a central controller device from the wireless management device; and**
 - relaying the override signal from the central controller device to the POS device.**

15. A method for providing efficient management interaction in a consumer transaction system, the method comprising:

- (a) performing customer transactions through a plurality of point of sale (POS) systems networked to a central controller system, including identifying an override condition during a customer transaction in a POS system, sending data for the override condition to the central controller system, and transferring the data for the override condition to a mobile manager system; and**
- (b) utilizing the mobile manager system to remotely monitor and respond to the plurality of POS systems, including signaling release of the override condition from the mobile manager system to the central controller system.**

23. A system for improving manager interaction in a consumer transaction system, the system comprising:

- a plurality of point of sale (POS) systems;**
- a central controller system coupled to the plurality of POS systems; and**
- a mobile manager system in communication with the plurality of POS systems through the central controller system by a wireless communication mechanism, wherein the mobile manager system remotely monitors and responds to the plurality of POS systems, the POS system identifies an override condition during a customer transaction and sends data for the override condition to the central controller system, the central controller system transfers the data for the override condition to the mobile manager system, and the mobile manager system signals release of the override condition to the central controller system.**

With the signaling of the mobile manager system to the central controller in the present invention, more direct control by the manager to an override condition in the POS is achieved, including, for example, the recited ability to remotely switch a status for a lock of at least one POS system (see dependent claim 10).

The Examiner's position seems to emphasize the role of the phone system in Swinamer as providing a "communication" system between the POS terminals and a central point, and that improvement of such a "communication" system would be obvious to one of ordinary skill in the art. Further, the wireless "communication" system of Walker is presented as an obvious improvement for replacing the Swinamer phone system.

In contrast to the recited invention, there is nothing in Swinamer, even when taken with Walker, that teaches or suggests the signaling of data from a mobile manager system to a central controller to provide an override signal in response to an override condition occurring in a POS. Swinamer discloses connection of each clerk and bagger at each counter in a grocery store to each other and to a manager via an intercom system. As the Examiner states, the "manager is at the master station (central controller system)" and it is through "verbal communication" that the manager interacts with the clerks and baggers. The manager is not taught or suggested as being tied electronically to a point of sale (POS) device/cash register. Thus, the verbal communication of the manager to the clerk only affects the cash register if the clerk performs some action. With the signaling of the mobile manager system to the central controller in the present invention, more direct control by the manager to an override condition in the POS is achieved.

While the cited art of Walker does describe a plurality of POS terminals in a network with a server system, even the inclusion of a network system of Walker et al. in the Swinamer environment still would not teach or suggest the recited invention. As the Examiner points out, the PDAs are described in Walker as output devices. There is nothing in Walker to teach or suggest that a PDA is used as an input device for signaling to a central controller, and more

particularly, for signaling an override signal in response to an override condition occurring in a POS, as recited by the Appellant.

Thus, whether the clerk and manager in the Swinamer system communicate via phones or PDAs, Appellant fails to see any teaching or suggestion of the recited use of a mobile manager system to remotely monitor and respond to the plurality of POS systems, the POS system identifying an override condition during a customer transaction and sending data for the override condition to the central controller system, the central controller system transferring the data for the override condition to the mobile manager system, and the mobile manager system signaling release of the override condition to the central controller system.

In view of the foregoing, Appellant respectfully submits that recited invention is not taught, shown, or suggested by the cited art.

Accordingly, Appellant respectfully requests withdrawal of the rejection under 35 U.S.C. 103(a) and respectfully requests that the Board reverse the final rejection of Claims.

D. Summary of Arguments

For all the foregoing reasons, it is respectfully submitted that Claims 2, 5, 6, 8, 9, 10, 11, 15, 16, 18, 19, 20, 23 and 24 (all the Claims presently in the application) are patentable for defining subject matter which would not have been unpatentable under 35 U.S.C. § 103(a) at the time the subject matter was invented. Thus, Appellant respectfully requests that the Board reverse the rejection of all the appealed Claims and find each of these Claims allowable.

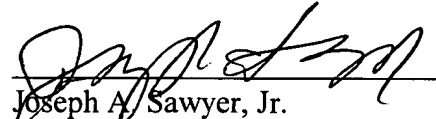
Note: For convenience of detachment without disturbing the integrity of the remainder of pages of this Appeal Brief, Appellant's "APPENDIX" section is contained on separate sheets following the signatory portion of this Appeal Brief.

This Brief is being submitted in triplicate, and authorization for payment of the required Brief fee is contained in the cover letter for this Brief. Please charge any fee that may be necessary for the continued pendency of this application to Deposit Account No.

Respectfully submitted,

August 27, 2003

Date



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IX. APPENDIX

2. The method of claim 5 wherein the sending step (b) comprises

- (b1) providing the override details from the POS device to a central controller device; and
- (b2) sending the override details from the central controller device to the wireless management device.

5. A method for efficiently handling an override condition in a point of sale device (POS), the method comprising:

- (a) receiving override details at the POS device;
- (b) sending the override details from the POS device to a wireless management device; and
- (c) displaying the override details on the wireless management device, further including:
 - entering an override signal on the wireless management device;
 - sending the override signal to a central controller device from the wireless management device; and
 - relaying the override signal from the central controller device to the POS device.

6. The method of claim 5 in which the wireless management device comprises a personal digital assistant (PDA), the PDA including a wireless modem.

8. The method of claim 15 wherein utilizing step (b) further comprises (b1) utilizing a personal digital assistant equipped with a wireless modem.

9. The method of claim 8 wherein utilizing step (b1) further comprises determining a status of at least one of the plurality of POS systems, identifying whether the status is satisfactory, and when the status is unsatisfactory, adjusting the status to reach a satisfactory level.

10. The method of claim 9 wherein adjusting the status further comprises remotely switching a status for a lock of the at least one POS system.

11. The method of claim 9 wherein adjusting the status further comprises directly tendering a monetary pick-up from the at least one POS system.

15. A method for providing efficient management interaction in a consumer transaction system, the method comprising:

(a) performing customer transactions through a plurality of point of sale (POS) systems networked to a central controller system, including identifying an override condition during a customer transaction in a POS system, sending data for the override condition to the central

controller system, and transferring the data for the override condition to a mobile manager system; and

(b) utilizing the mobile manager system to remotely monitor and respond to the plurality of POS systems, including signaling release of the override condition from the mobile manager system to the central controller system.

16. The method of claim 15 further comprising relaying the release of the override condition from the central controller to the POS system.

18. The system of claim 23 wherein the mobile manager system comprises a personal digital assistant equipped with a wireless modem.

19. The system of claim 23 wherein the mobile manager system further determines a status of at least one of the plurality of POS systems, identifies whether the status is satisfactory, and when the status is unsatisfactory, adjusts the status to reach a satisfactory level.

20. The system of claim 19 wherein the mobile manager adjusts the status by remotely switching a status for a lock of the at least one POS system.

23. A system for improving manager interaction in a consumer transaction system, the system comprising:

a plurality of point of sale (POS) systems;

a central controller system coupled to the plurality of POS systems; and

a mobile manager system in communication with the plurality of POS systems through the central controller system by a wireless communication mechanism, wherein the mobile manager system remotely monitors and responds to the plurality of POS systems, the POS system identifies an override condition during a customer transaction and sends data for the override condition to the central controller system, the central controller system transfers the data for the override condition to the mobile manager system, and the mobile manager system signals release of the override condition to the central controller system.

24. The system of claim 23 wherein the central controller system relays the release of the override condition to the POS system.